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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/644,111	08/20/2003	Keith A. Sauerland	03093	6528

30114 7590 06/15/2005

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BARRINGTON, IL 60011

EXAMINER

BRADFORD, RODERICK D

ART UNIT	PAPER NUMBER
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3762

DATE MAILED: 06/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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**Office Action Summary**

Application No.

10/644,111

Applicant(s)

SAUERLAND, KEITH A.

Examiner

Roderick Bradford

Art Unit

3762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-8 and 21-24 is/are allowed.
- 6) ☒ Claim(s) 9-14 and 16-20 is/are rejected.
- 7) ☒ Claim(s) 15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 08/20/2003.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 9, 10, 13, 14, 16, 19 and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Candioly et al. U.S. 2004/0037429.

Referring to claims 9 and 16 Candioly discloses: a fluid tight (paragraph 0025) hand held sound sensing device and shaped for being grasped by a hand and having stethoscope head for sensing auscultatory sounds (fig.1) and a microphone for sensing sound communications (12); a transmitter within the device for transmitting sounds sensed by the device (claim 1); a receiver for receiving transmissions from the transmitter (claim 1); and an ear piece for converting the received transmissions into audible sound (paragraph 0018).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 9 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moore et al. U.S. Patent No. 6,533,736 in view of Candioly et al. U.S. 2004/0037429.

Referring to claims 9 and 16 Moore discloses: a hand held sound sensing device and shaped for being grasped by a hand and having stethoscope head for sensing auscultatory sounds (14) and a microphone for sensing sound communications (abstract); a transmitter within the device for transmitting sounds sensed by the device (fig.15); a receiver for receiving transmissions from the transmitter (fig.15); and an ear piece for converting the received transmissions into audible sound (12).

Referring to claims 11, 12, 17 and 18 Moore in view of Candioly fails to disclose wherein the transmitter is a magnetic induction and wherein the auscultatory sounds are sent to the receiver through a magnetic field. It would have been an obvious design choice to one skilled in the art to modify the teachings of Moore in view of Candioly with wherein the transmitter is a magnetic induction and wherein the auscultatory sounds are sent to the receiver through a magnetic field, since the applicant has not disclosed that wherein the transmitter is a magnetic induction and wherein the auscultatory sounds are sent to the receiver through a magnetic field provides any criticality and/or unexpected results and it appears the invention would perform equally well with any transmitter/receiver such as the transmitter/receiver as taught by Moore in view of Candioly as means to transmit and receive sounds through the stethoscope.

***Allowable Subject Matter***

5. Claims 1-8 and 21-24 allowed.

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6. Claim 15 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

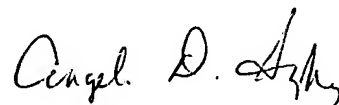
**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roderick Bradford whose telephone number is (571) 272-4942. The examiner can normally be reached on Monday - Friday 9 a.m. - 6:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on (571) 272-4955. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
R.B.



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